

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Paul Sabin et al.

Application No.: 10/535,559

Confirmation No.: 7699

Filed: January 4, 2006

Art Unit: 1795

For: **MEMBRANE BASED ELECTROCHEMICAL
CELL STACKS**

Examiner: T. H. Parsons

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER 37 CFR 1.132

The undersigned declare as follows:

1. We, Paul Sabin, Paul Osenar, and Mohammad Enayetullah, residents of the United States, hereby declare that we are familiar with claims 1-42 recited in the above-identified application (hereinafter the "Claims"). We are inventors or co-inventors of one or more of the Claims.

2. We are also familiar with issued U.S. Patent No. 7,306,864, to Osenar et al. (hereinafter "the '864 Patent") and with World Publication No. WO 03/092096, to Osenar et al. (hereinafter, "the '096 Application").

3. We understand that the Examiner in the above-identified application has asserted that some or all of the subject matter claimed in the instant application is

taught by the '864 Patent and/or the '096 Application.

4. With reference to the following tables, the inventive entities are shown for the present application, the '864 Patent and the '096 Application:

The present application – USSN 10/535,559

Paul Sabin
Peter Rezac
Paul Osenar
Mohammad Enayetullah

The '864 Patent

Paul Osenar
Paul Sabin
Mohammad Enayetullah
Richard Formato

The '096 Application

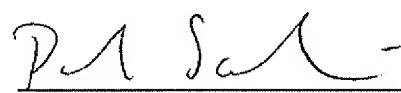
Paul Osenar
Paul Sabin
Mohammad Enayetullah
Richard Formato

5. As indicated above, we are each inventors of one or more claims of each of the '864 Patent and the '096 Application. If, and to the extent that any of the subject matter claimed in the instant application was disclosed but not claimed in either or both of the '864 Patent and the '096 Application, that subject matter was invented by the

undersigned three inventors. The instantly claimed invention (as recited in claims 1-42) was not invented by Richard Formato, an inventor or co-inventor of one or more claims of the '864 Patent and the '096 Application. As such, the '864 Patent and the '096 Application are not the work of another relative to the present application. (Peter Rezac is an inventor of one or more of the Claims in the instant case, but he was not an inventor of one or more claims of '864 Patent and the '096 Application.) Consequently, based on our understanding of 35 USC §102(e), the rejections of the Claims over the '864 Patent and the '096 Application should be withdrawn.

6. We hereby further declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both (18 U.S.C. 1001), and that such willful false statements may jeopardize the validity of the above-identified Application or any patent issued thereon.

Date: 12/15/08



Paul Sabin

Date: _____

Paul Osenar

Date: _____

Mohammad Enayetullah

Docket No.: 58399(47171)
(PATENT)

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Peter Rezac
Paul Osenar
Mohammad Enayetullah

The '864 Patent

Paul Osenar
Paul Sabin
Mohammad Enayetullah
Richard Formato

The '096 Application

Paul Osenar
Paul Sabin
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Date: _____

Date: 12/15/08

Date: 12/15/08

Paul Sabin



Paul Osenar



Mohammad Enayetullah